

# **EXHIBIT 1**

IN THE UNITED STATES DISTRICT COURT.  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

NEXT PAYMENT SOLUTIONS, INC.,	)	
	)	
Plaintiff,	)	Case No. 17 C 8829
	)	
-vs-	)	Chicago, Illinois
	)	March 26, 2019
CLEARRESULT CONSULTING, INC.,	)	9:48 a.m.
	)	
Defendant.	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE CHIEF JUDGE RUBEN CASTILLO

APPEARANCES:

For the Plaintiff: MS. SUSAN BOGART  
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Court Reporter:

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1 APPEARANCES: (Continued)

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1 (Proceedings heard in open court:)

2 THE CLERK: 17 C 8829, NEXT Payment Solutions versus  
3 CLEAResult Consulting.

4 THE COURT: Good morning.

09:48:15

5 MS. BOGART: Good morning, Your Honor. Susan Bogart  
6 on behalf of the plaintiff.

7 MS. ARMSTRONG: Shannon Armstrong on behalf of the  
8 defendant, CLEAResult Consulting.

09:48:23

9 MR. FUGA: Anthony Fuga also on behalf of the  
10 defendant.

11 THE COURT: So there's only one motion that's up  
12 today, right, the motion to compel?

13 MS. BOGART: That's right.

14 THE COURT: And you've already filed a response?

09:48:29

15 MS. BOGART: We have.

16 THE COURT: I think this Court already foreshadowed  
17 its conclusion in the summary judgment opinion. I think it is  
18 appropriate to grant the defendant's motion, and so I'm going  
19 to grant motion that's docketed 288, and I'm merely going to  
20 say consistent with the Court's summary judgment opinion, I  
21 conclude that the plaintiff's current description of its trade  
22 secrets is too broad to support the plaintiff's position of  
23 proceeding to trial on a claim for misappropriation of trade  
24 secret, so plaintiff is ordered to supplement its response  
25 within 30 days.

09:49:17

1           So we need to know exactly the trade secret that  
2 you're going to proceed to on trial. I understand I tried to  
3 clarify that. I think I said something like the specific  
4 features that were in the FAST Tool but were missing from the  
5 DSMTracker and later added to the DSMTracker after defendant  
6 accessed the NEXT system back end, but that's way too general  
7 for a jury to deal with, and that's why I'm ordering the  
8 supplement within 30 days.

9           And let me just tell you, Ms. Bogart, if we don't get  
10 a supplement that is what I think triable, this could hold up  
11 the trial or else I'm going to ask you to give up this  
12 particular claim, and you have other claims you can proceed to  
13 trial on. But we really need to flush this out and keep in  
14 mind a jury having to grapple with this. That's all I'm going  
15 to tell you.

16           So 30 days. Today is March 26th. That's going take  
17 you to April 26th. Let's see what you file.

18           I'm going to see you then on May 2nd.

19           MS. BOGART: Judge, I'm out of town on May 2nd.

20           THE COURT: Okay. Then why don't we say the  
21 following Monday, May 4th. Are you in?

22           MS. BOGART: I'm back May 5th.

23           THE COURT: May 5th? 6th did you say?

24           MS. BOGART: I think May 5th is a Sunday.

25           THE COURT: May -- yeah, I think I'm off track here.

1 THE CLERK: You're going to be in Milwaukee.

2 THE COURT: For the Seventh Circuit conference.

3 Okay. So why don't we just make it the following  
4 week then.

09:51:10

5 THE CLERK: Like the 14th?

6 THE COURT: That's too far.

7 THE CLERK: Or the 8th you're talking about.

8 THE COURT: Yeah. Let's make it May 8th at 10:00.

09:51:24

9 That's going to give the defense plenty of time to react to  
10 the supplement.

11 MS. ARMSTRONG: Your Honor, what about the immediate  
12 pretrial order and trial dates that have been set?

13 THE COURT: I think I'm not going to make you file it  
14 and re-do it. Let's hold off on that for right now.

09:51:35

15 MS. ARMSTRONG: Thank you.

16 MS. BOGART: Judge, if I might?

17 THE COURT: Yes.

18 MS. BOGART: We -- in our response, we did identify  
19 and we have had on record since July of 2018 very specific  
20 features that we have the evidence --

09:51:50

21 THE COURT: I've looked at those. All I can tell  
22 you, Ms. Bogart, it's not sufficient for my purposes, and it's  
23 not going to be sufficient for a jury to decide this case.  
24 That's my conclusion.

09:52:02

25 I'm not going to try a case just to get a mistrial.

1 I've got better things to do. So please supplement.

2 MS. BOGART: I understand.

3 THE COURT: If you want to rest on that supplement,  
4 you're going to take a chance, that's all I'm going to ask.

09:52:13

5 So you supplement as you see fit, and I will do what I think  
6 is appropriate, which could mean tubing this particular claim.

7 Thank you.

8 Call the next case.

9 (Which were all the proceedings heard.)

10 CERTIFICATE

11 I certify that the foregoing is a correct transcript from  
12 the record of proceedings in the above-entitled matter.

13 /s/Kathleen M. Fennell

March 26, 2019

14

Kathleen M. Fennell  
15 Official Court Reporter

\_\_\_\_\_  
Date

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